

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FREDDIE L. BREWER, #07034210,

Petitioner,

v.

SHERIFF LUPE VALDEZ,

Respondent.

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Civil Action No. **3:08-CV-1505-L**

ORDER

Before the court are the Findings, Conclusions and Recommendation of the United States Magistrate Judge, filed November 3, 2008. Petitioner timely filed objections on November 10, 2008.

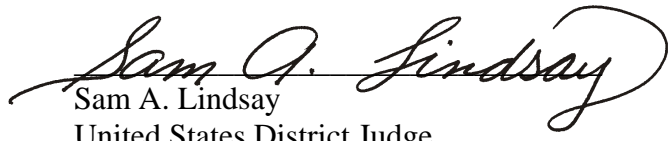
This is a habeas petition brought pursuant to 28 U.S.C. § 2241. The magistrate judge determined that the petition should be dismissed. Specifically, to the extent that Plaintiff seeks habeas relief to ensure a speedy trial, the magistrate judge recommends denying this claim without prejudice due to Petitioner's failure to exhaust his state court remedies. The magistrate judge recommends dismissing with prejudice Petitioner's remaining claims.

Petitioner objects to the magistrate judge's findings and conclusions. He states that he seeks to be released from being illegally restrained, that the magistrate judge erred in dismissing his Fourth Amendment claims, and that he is not claiming a denial of speedy trial. The magistrate judge specifically held that federal habeas relief is limited to enforcing a state's obligation to bring a defendant promptly to trial, not to adjudicate the merits of the criminal proceeding. *See Dickerson v. State of Louisiana*, 816 F.2d 220, 226 (5th Cir.), *cert. denied*, 484 U.S. 956 (1987); *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493 (1973). The court determines that the issues

raised by Petitioner “may be resolved either by trial on the merits in the state court or by other state procedures available to the petitioner.” *Dickerson*, 816 F.2d at 225. Accordingly, the court **overrules** Petitioner’s objections. To the extent that Petitioner denies that he is bringing a speedy trial claim, the court accepts this statement.

Having reviewed the pleadings, file and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct with respect to his recommendation that the court dismiss with prejudice Petitioner’s claims other than what the magistrate judge construed as a speedy trial claim and **accepts** the magistrate judge’s findings and conclusions with respect to those claims. The court, based upon Petitioner’s statement that he is not asserting a speedy trial claim, **rejects** the magistrate judge’s findings and conclusions regarding that alleged claim because they are moot. The court therefore **dismisses** Petitioner’s habeas petition **with prejudice**.

It is so ordered this 24th day of November, 2008.


Sam A. Lindsay
United States District Judge